

HB 139 -- Conflicts of Interest and Lobbying, Ethics, and Campaign Finance

Sponsor: McManus

This bill changes the laws regarding conflicts of interest and lobbying, ethics, and campaign finance.

CONFLICTS OF INTEREST AND LOBBYING

The bill:

(1) Prohibits the solicitation of expenditures and fund-raising activities and events supporting or opposing any candidate, ballot measure, political party, or political party committee on any property or in any building owned or leased by the state or any political subdivision unless the property or building is routinely used by and made available for rent or for a fee to all members of the public (Section 8.925, RSMo);

(2) Prohibits a member of the General Assembly from receiving compensation of any kind as a paid political consultant as defined in the bill for another member of the General Assembly, a statewide office holder, or any political committee as defined in Chapter 130. The spouse, dependent child, and parent of a member also are prohibited from receiving compensation of any kind on behalf of a member who acts as a paid political consultant (Sections 105.450 and 105.456.3);

(3) Prohibits a member of the General Assembly from acting, serving, or registering as a legislative lobbyist until after two calendar years following the conclusion of the general assembly in which the member last served and prohibits a member from soliciting clients to represent as a legislative lobbyist. An individual or business entity is prohibited from soliciting a legislator to become employed by that individual or entity as a lobbyist or paid political consultant while the legislator is holding office (Sections 105.456.4 and 105.456.5);

(4) Specifies that the crime of bribery of a public servant includes when the Governor or an agent of the Governor offers or promises to confer various specified appointed positions to a member of the General Assembly in exchange for the member's official vote on a public matter and specifies that the crime of acceding to corruption by a public servant includes when a member of the General Assembly accepts or agrees to accept an offer or promise to confer an appointment to specified positions in exchange for an official vote on a public matter (Sections 105.456.6 and 105.456.7);

(5) Specifies that any person who intentionally offers anything of value to or accepts anything of value from an elected or appointed official or employee of the state or any political subdivision in direct exchange for voting for or against or engaging in any action designed to benefit, delay, or hinder the passage or failure of any specific state legislation, rule, or regulation or any specific local legislation, order, ordinance, rule, or regulation will be guilty of a class D felony (Section 105.465);

(6) Allows a lobbyist to report the total expenditures for an occasion provided to all members of the House of Representatives or Senate and their staff and employees, all members of a joint committee of the General Assembly and their staff, a standing committee of the House of Representatives or the Senate and their staff, the majority or minority caucus of the House of Representatives or the Senate, and all statewide officials and their staff and employees when they are invited in writing (Section 105.473.3);

(7) Requires a lobbyist or a lobbyist principal to maintain accurate records relating to receipts and expenditures for elected officials for at least three years and to make those records available to the Missouri Ethics Commission for inspection upon an investigation by the commission (Section 105.473.6);

(8) Specifies that any person who engages in lobbyist activities as defined in Section 105.470 and knowingly fails to register as a lobbyist will be guilty of a class B misdemeanor for the first violation and a class D felony for any subsequent violation (Section 105.478);

(9) Prohibits a member of the General Assembly or the member's staff, employees, spouse, or dependent child from accepting or receiving cumulative expenditures, as defined in Section 105.470, from lobbyists in excess of \$1,000 per calendar year per member, including expenditures to the member's staff, employees, spouse, or dependent child. If the report provided to a member by the commission indicates that the member has exceeded this limit, the member has 60 days from the first day of the next calendar month after receipt of the report to reimburse the lobbyist for the excess amount. The commission must enforce this provision upon receiving a complaint or conducting an investigation (Section 105.479); and

(10) Changes the reporting period for required personal financial disclosure statements by candidates and certain appointed officials and employees from for the 12 months prior to the closing date for filing to for the previous calendar year ending the immediately

preceding December 31 to be consistent with the required time period for public officers. Certain reports will be considered timely filed if they are postmarked on the day due for filing rather than the day before that date (Sections 105.487 and 130.046).

## ETHICS

The bill:

(1) Authorizes the term of a member of the Missouri Ethics Commission to be extended one time for up to 120 days if there are vacancies on the commission and allows the executive director of the commission, who serves at the pleasure of the commission, to serve for up to eight years instead of up to six years (Sections 105.955.3 and 105.955.11);

(2) Authorizes the commission to conduct investigations and clarifies the commission's authority to issue subpoenas by allowing the commission to delegate the power to issue subpoenas to the executive director (Sections 105.955.14 and 105.955.15);

(3) Requires a complaint to be signed and notarized and to include the alleged facts that, if true, are within the commission's jurisdiction before being accepted by the commission. The provision is repealed that allows the commission to dismiss a case if it finds no probable cause to believe that there has been a violation (Section 105.957);

(4) Authorizes the executive director of the commission to conduct an independent investigation without the receipt of a complaint if there are reasonable grounds to believe a violation has occurred and four members of the commission vote to proceed. The investigation must be strictly confidential with the exception that the commission must notify the person under investigation by registered mail within five days of the decision to conduct the investigation. If an investigation fails to establish reasonable grounds to believe that a violation has occurred, the investigation must be terminated and the person who had been under investigation must be notified (Section 105.959);

(5) Modifies the complaint investigation procedures, investigation time frames, and the appeal process (Sections 105.961, 105.963.7, and 105.966);

(6) Establishes the late fees that may be assessed for delinquent reports to the commission at a consistent rates for all report types with a maximum of \$3,000 per report (Sections 105.963.1 and 105.963.2);

(7) Authorizes the commission, after receiving a judgment for unpaid late filing fees, to collect the judgment in any manner authorized by law including garnishment of and execution against the committee's official depository account after a 30-day delinquency (Section 105.963.5);

(8) Requires a candidate, in the required written declaration of candidacy, to affirm that he or she is not a feigned candidate in order to conceal the candidacy of another or to divide the opposition (Section 115.349.3); and

(9) Creates a class three election offense for giving, lending, or agreeing to give or lend, offering, promising, or endeavoring to procure money or anything of value with the intent to induce a person to run for any office in this state if the person has the same or a similar name as another candidate for that office and would not otherwise run for the office but for the inducement. Legally made campaign contributions will not be construed as an inducement to run for elective office under the provisions of the bill (Section 115.635).

#### CAMPAIGN FINANCE

The bill:

(1) Moves the definitions regarding committee formation and termination to the proper section (Sections 130.011 and 130.021);

(2) Revises the definition of a "committee" to include an organization that is exempt from taxation under 26 U.S.C. Section 501(c)(4) and revises the definition of "political party committee" to include only a state, Congressional district, or county continuing committee of a political party as authorized in Section 115.603 (Section 130.011);

(3) Prohibits a candidate from forming a new committee or serving as a treasurer or deputy treasurer for a committee until the person or the treasurer of any previously formed committee by the person or who served as treasurer or deputy treasurer has filed all required campaign disclosure reports or statements of limited activity have been filed for all prior elections and paid any outstanding fees. No candidate is allowed to form, control, or direct a continuing committee as defined in Section 130.011 (Section 130.021.3);

(4) Modifies the time frame for filing a statement of organization and terminating a committee (Section 130.021);

(5) Prohibits a committee from transferring any funds received by the committee to any other committee. Any person who violates this provision will be notified by the commission within five days of determining that the transfer is prohibited, and the person must notify the committee to which the funds were transferred that they must be returned within 10 days. For a second violation, the person transferring the funds will be subject to a civil penalty of \$1,000. For a third or any subsequent violation, the person transferring the funds will be subject to a civil penalty of \$5,000, must vacate the position of treasurer or deputy treasurer for all committees served, and will be forever barred from acting as a treasurer or deputy treasurer for any committee. The prohibition will not apply to any transfer of funds from any committee to a campaign or candidate committee, including any transfer of funds from a candidate committee to a candidate committee, or from a candidate committee to a continuing committee unless the funds were transferred with the intent to conceal the identity of the actual source of the funds. The prohibited committee transfers do not apply to a transfer from the state house committee or state senate committee per political party designated by the respective majority or minority floor leader or designated by the chair of the state party if the party does not have a majority or minority party status (Sections 130.031.13, 130.031.14, 130.031.15);

(6) Prohibits the transfer of funds between committees when the same individual is treasurer of both committees (Section 130.031.17);

(7) Limits campaign contributions from any one person other than the candidate in any one election to candidates for statewide office, state senator or representative, and all other offices at \$5,000 and requires contributions from a child younger than 14 years of age to be counted equally toward each parent's contribution limits or, in the case of a single parent, counted fully against that parent's contribution limit (Section 130.032);

(8) Specifies that disclosure reports must be available for inspection by the commission instead of the Campaign Finance Review Board, which no longer exists (Section 130.036);

(9) Requires any committee, as defined in Section 130.011, that holds or invests funds to hold or invest the moneys in no- or low-risk investments and prohibits the investment of any of the funds in moderate- to high-risk investments (Section 130.039);

(10) Decreases, from \$5,000 to \$2,000, the amount of a single contribution that must be disclosed electronically to the commission within 48 hours of receipt. Individuals and committees

required to file disclosure reports who receive a single contribution of \$2,000 or more that must be reported under Section 130.044 must include that contribution on the current and all subsequent disclosure reports or statements of limited activity required in that election cycle or calendar year. The contribution reportable under Section 130.044 and required to be included on subsequent statements of limited activity under Section 130.041 will not be counted in the maximum aggregate limits for a statement of limited activity filed under Section 130.046 (Sections 130.041, 130.044, and 130.046);

(11) Removes the exemption and requires specified continuing committees and candidate committees to file campaign finance reports electronically with the commission (Section 130.057);

(12) Prohibits a successful candidate who has served as a treasurer or deputy treasurer of specified committees from taking office until all delinquent required reports are filed. Currently, the law specifies that a successful candidate cannot take office until the candidate or the treasurer of his or her candidate committee has filed the candidate's required disclosure reports. The bill also requires any successful candidate to pay all assessed fees by the commission before taking office (Section 130.071); and

(13) Repeals the provisions enacted by Senate Bill 844 in the 95th General Assembly, Second Regular Session, which were struck down as unconstitutional by the Missouri Supreme Court for procedural reasons in *Legends Bank and John Klebba v. State of Missouri*, SC 91742.

The bill becomes effective January 1, 2014.